

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0191P

Sales Tax

Calendar Years 1998, 1999, & 2000

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ISSUE

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the negligence penalty.

STATEMENT OF FACTS

The negligence penalty was assessed on a sales tax assessment resulting from a Department audit conducted for the calendar years 1998, 1999, & 2000.

The taxpayer manufactures, packages and sells a wide range of pet animal foods and supplies. The taxpayer has several manufacturing and warehouse facilities with some of them being located within Indiana. The taxpayer's commercial domicile is out-of-state.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer argues the penalty should be waived as the error was the result of an oversight in the self assessment of use tax.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions

provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the taxpayer’s penalty protest is denied.

FINDINGS

The taxpayer’s penalty protest is denied.